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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 DURRELL ANTHONY PUCKETT,

12 Plaintiff,

13 v.

14 BARAONA, *et al.*,

15 Defendants.
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Case No. 1:21-cv-01448-ADA-BAM (PC)

ORDER GRANTING IN PART PLAINTIFF'S
MOTION FOR FURTHER EXTENSION OF
TIME TO FILE MOTION TO SUBSTITUTE
AND PROPOSED SECOND AMENDED
COMPLAINT WITH INFORMATION
IDENTIFYING DOE DEFENDANTS

(ECF No. 58)

**Deadline for Proposed Second Amended
Complaint: February 10, 2023**

19 Plaintiff Durrell Anthony Puckett ("Plaintiff") is a state prisoner proceeding *pro se* and *in*
20 *forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on
21 Plaintiff's first amended complaint against: (1) Defendants A. Baraona, R. Burnitzki,¹ R. Leos, H.
22 Hernandez, E. Diaz, and Doe 1 for excessive force in violation of the Eighth Amendment;
23 (2) Defendants R. Leos, for sexual assault in violation of the Eighth Amendment; and (3)
24 Defendants A. Ruiz, R. Martinez, E. Ruiz, G. Meier,² R. Gutierrez, J. Cruz, K. Allison
25 (Cronister), and Jane Doe Nurse for failure to protect in violation of the Eighth Amendment. All
26 named defendants answered the complaint, (ECF No. 51), and discovery is now open, (ECF No.
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28 ¹ Erroneously sued as "Burneszki."

² Erroneously sued as "Meiers."

1 56.)

2 On March 17, 2022, the Court directed Plaintiff to provide the Court with written notice
3 identifying Defendants Doe 1 and Jane Doe Nurse with enough information to locate those
4 defendants for service of process. (ECF No. 21.) When Plaintiff failed to provide such written
5 notice, the Court issued an order requiring Plaintiff to show cause why Defendants Doe 1 and
6 Jane Doe Nurse should not be dismissed for failure to prosecute. (ECF No. 44.) Plaintiff
7 responded, stating that he could not get the names of the Doe Defendants until discovery, and
8 provided some limited identifying information about Defendants Jane Doe Nurse and Doe 1.
9 (ECF No. 48.)

10 The Court construed Plaintiff's response as a request for an extension of time to identify
11 the Doe Defendants until discovery opened, and found it appropriate to extend the deadline for
12 Plaintiff to identify the Doe Defendants. (ECF No. 49.) When discovery was opened pursuant to
13 the Court's October 24, 2022 discovery and scheduling order, the Court reset the deadline for
14 Plaintiff to provide the Court with identifying information for the two Doe Defendants to
15 December 27, 2022. (ECF No. 57.)

16 Currently before the Court is Plaintiff's motion for an extension of time to identify the
17 Doe Defendants, filed December 28, 2022. (ECF No. 58.) Plaintiff requests sixty days to file a
18 meet and confer before filing a motion to compel interrogatories and production of documents to
19 seek the names of Defendants Doe 1 and Jane Doe Nurse. Plaintiff contends that Defendants'
20 counsel sent misleading information, and gave Plaintiff non-3A03 Ad-Seg EOP 2nd Watch
21 nurses, and not the names of the officers. Plaintiff also notes that he is still willing to submit to a
22 polygraph test regarding the claims presented in this suit. Attached to Plaintiff's motion is what
23 appears to be a sign in sheet produced in response to Plaintiff's request for production of
24 documents, set one. (*Id.* at 2–3.)

25 Defendants have not yet had an opportunity to respond to Plaintiff's motion, but the Court
26 finds a response unnecessary. The motion is deemed submitted. Local Rule 230(l).

27 Upon review of the motion, the Court finds good cause to grant, in part, Plaintiff's request
28 for extension of time. Plaintiff has demonstrated ongoing efforts to discover the identities of the

1 two Doe Defendants, and the Court finds it appropriate to grant Plaintiff a further extension of
2 time to submit as much information as he possesses regarding the Doe Defendants so they may be
3 served by the U.S. Marshal. However, the Court finds that an extension of thirty days, rather than
4 sixty, is appropriate under the circumstances. The deadline to file any motions to amend the
5 pleadings in this action is set for January 24, 2023, and a sixty-day extension of time would
6 unnecessarily delay the proceedings in this action. Although Plaintiff may wish to raise separate
7 issues with Defendants' discovery responses, Plaintiff has had ample opportunity to investigate
8 the identities of the Doe Defendants. Accordingly, the Court extends the deadline for motions to
9 amend the pleadings, only for the purposes of submitting a proposed second amended complaint
10 identifying the Doe Defendants, until **February 10, 2023**.

11 Once Plaintiff identifies Defendants Doe 1 and Jane Doe Nurse, he should file a motion to
12 substitute the identities of Defendants Doe 1 and Jane Doe Nurse, together with a proposed
13 second amended complaint that includes their names in place of Doe 1 or Jane Doe Nurse. If
14 Plaintiff provides enough information to locate the defendants for service of process, the motion
15 to substitute will be granted and the Court will direct the U.S. Marshal to serve these defendants.
16 However, if Plaintiff fails to identify Defendants Doe 1 and Jane Doe Nurse, then any
17 unidentified defendant(s) will be dismissed from this action.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. Plaintiff's motion for extension of time, (ECF No. 58), is GRANTED IN PART;
- 20 2. The deadline for filing motions to amend, only for the purposes of submitting a proposed
21 second amended complaint identifying the Doe Defendants, is extended to **February 10,**
22 **2023;**
- 23 3. On or before **February 10, 2023**, Plaintiff shall file a motion to substitute the identities of
24 Defendants Doe 1 and Jane Doe Nurse that provides the Court with enough information to
25 locate them for service of process, together with a proposed second amended complaint
26 substituting the names of Defendants Doe 1 and Jane Doe Nurse; and

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